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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,771	11/08/2001	Thomas J. Gritzmacher	38-0014	1391
26294	7590	10/30/2007		
TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P. 1300 EAST NINTH STREET, SUITE 1700 CLEVEVLAND, OH 44114			EXAMINER CHANDLER, SARA M	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/005,771	<b>Applicant(s)</b> GRITZMACHER ET AL.	
	<b>Examiner</b> Sara Chandler	<b>Art Unit</b> 3693	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 September 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-9,11-16,18-28 and 36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-9, 11-16, 18-28 and 36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Amendment***

In view of the appeal brief filed on 07/10/07 and the supplemental amendment filed 09/04/07, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

James Kramer.

This Office Action is responsive to the supplemental amendment and request for reconsideration of application 10/005,771 (11/08/01) filed 09/04/07

### ***Claim Interpretation***

1. In determining patentability of an invention over the prior art, all claim limitations have been considered and interpreted as broadly as their terms reasonably allow. See MPEP § 2111.

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re Pruter*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969). See MPEP § 2111.

2. All claim limitations have been considered. Additionally, all words in the claims have been considered in judging the patentability of the claims against the prior art. See MPEP 2106 II C. The following language is interpreted as not further limiting the scope of the claimed invention. See MPEP 2106 II C.

Language in a method claim that states only the intended use or intended result (e.g., "for \_\_\_\_\_"), but the expression does not result in a manipulative difference in the steps of the claim. Language in a system claim that states only the intended use or intended result (e.g., "for \_\_\_\_\_"), but does not result in a structural difference between the claimed invention and the prior art. In other words, if the prior art structure is capable of performing the intended use, then it meets the claim.

Claim limitations that contain statement(s) such as "*if, may, might, can could*", as optional language. As matter of linguistic precision, optional claim elements do not narrow claim limitations, since they can always be omitted.

Claim limitations that contain statement(s) such as "*wherein, whereby*", that fail to further define the steps or acts to be performed in method claims or the discrete physical structure required of system claims.

USPTO personnel should begin claim analysis by identifying and evaluating each claim limitation. For processes, the claim limitations will define steps or acts to be performed. For products, the claim limitations will define discrete physical structures or materials. Product claims are claims that are directed to either machines, manufactures or compositions of matter. See MPEP § 2106 II C.

The subject matter of a properly construed claim is defined by the terms that limit its scope. It is this subject matter that must be examined. As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. The following are examples of language that may raise a question as to the limiting effect of the language in a claim:

- (A) statements of intended use or field of use,
- (B) "adapted to" or "adapted for" clauses,
- (C) "wherein" clauses, or
- (D) "whereby" clauses.

See MPEP § 2106 II C.

3. Independent claims are examined together, since they are not patentable distinct. If applicant expressly states on the record that two or more independent and distinct inventions are claimed in a single application, the Examiner may require the applicant to elect an invention to which the claims will be restricted.

### ***Claim Objections***

Claim 3 is objected to as being of improper dependent form because it depends from a cancelled claim.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 1, 3-9, 11-16, 18-28 and 36** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re Claims 1, 3-9, 11-16, 18-28 and 36: What is the meaning of "desired information" and "desired content." Is it intended that their scope is divergent or do they have the same meaning? Claim 7 for example references "a desired content" but, depends from claim 1 which references "desired information." Is the claim considered to be further limiting? If so, how?

These terms have broad meaning and pretty much anything that could be transmitted in a network would meet the claims. Without an explicit definition in the claims these terms are interpreted as any information or content.

Dependent claims are further rejected based on the same rationale.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 1, 5-9, 11-16, 19-27 and 36** are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones, US Pub. No. 2002/0176547.

**Re Claims 1 and 36:** Jones discloses a method/program storage device readable by machine, tangibly embodying a program of instructions executable by the machine to perform:

determining when a network interface is activated at a client system the network interface being activated when a communication link between the network and the client system is established (Jones, abstract, [0012] thru [0014]; [0016] [0017]; [0035] thru [0037]; [0047]; [0049] [0050] [0052] thru [0054]; [0056] thru [0059] client system/client = communication device (e.g., telephone, computer etc.) and packet billing system) obtaining desired information across said communication link while said network interface is activated (Jones, abstract, [0005]; [0008] thru [0012]; [0017]; [0029]; [0033] [0042] [0048]);

determining when said network interface is deactivated at the client system, the network interface being deactivated when the communication link between the network and the client system is disconnected, wherein the determining when a network interface is

activated and the determining when said network interface is deactivated is performed by the client system (Jones, abstract, [0012] thru [0014]; [0016] [0017]; [0035] thru [0037]; [0047]; [0049] [0050] [0052] thru [0054]; [0056] thru [0059] client system/client = communication device (e.g., telephone, computer etc.) and packet billing system); storing, at the client system, information relating to a time-based bill based on when the network interface is activated and when the network interface is deactivated (Jones, abstract, [0007] [0012] [0014] thru [0017]; [0029] [0035] [0037]); transmitting a call detail record from the client system to a billing module on a billing system based on the information relating to said time-based bill (Jones, abstract, [0007] [0014] thru [0017] [0037] [0038] [0050] [0051] [0054] [0058] [0059] client system/client = communication device (e.g., telephone, computer etc.) and packet billing system; billing module on a billing system = packet switched telephone network (PSTN) billing system).

Jones fails to explicitly disclose wherein the components of the client system were integrated (i.e., communication device and packet billing system).

#### Makings Integral

It has been held that merely making something integral only requires routine skill in the art. *In re Larson*, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965) .

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Jones to provide wherein all components of the client system were integrated (i.e., communication device and packet billing system).

One would have been motivated to by increased efficiency and cost reductions associated with integrating the components.



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**Re Claim 5:** Jones discloses the claimed invention supra and further discloses launching an application based on a menu selection (Jones, abstract, [0012] thru [0014]; [0016] [0017]; [0035] thru [0037]; [0047]; [0049] [0050] [0052] thru [0054]; [0056] thru [0059]).

**Re Claim 6:** Jones discloses the claimed invention supra and further discloses transmitting a connect packet from a client to a router device, said connect packet being based on said selected application (Jones, abstract, [0012] thru [0014]; [0016] [0017]; [0035] thru [0037]; [0047]; [0049] [0050] [0052] thru [0054]; [0056] thru [0059]).

**Re Claim 7:** Jones discloses the claimed invention supra and further discloses wherein when said network interface is activated, said method further comprises allowing access to a desired content (Jones, abstract, [0005]; [0008] thru [0012]; [0017]; [0029]; [0033] [0042] [0048]).

**Re Claim 8:** Jones discloses the claimed invention supra and further discloses transmitting a status packet from said router device to said client via said communication link (Jones, abstract, [0012] thru [0014]; [0016] [0017]; [0035] thru [0037]; [0047]; [0049] [0050] [0052] thru [0054]; [0056] thru [0059]).

**Re Claim 9:** Jones discloses the claimed invention supra and further discloses updating a status of said router device in a state table (Jones, abstract, [0012] thru [0014]; [0016] [0017]; [0035] thru [0037]; [0047]; [0049] [0050] [0052] thru [0054]; [0056] thru [0059]).

**Re Claim 11:** Jones discloses the claimed invention supra and further discloses wherein said call detail record comprising information relating to at least one of a time,

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an Internet protocol address and a status (Jones, abstract, [0007] [0014] thru [0017] [0037] [0038] [0050] [0051] [0054] [0058] [0059])

**Re Claim 12:** Jones discloses the claimed invention supra and further discloses transmitting a disconnect packet from a client to a router device via said communication link (Jones, abstract, [0012] thru [0014]; [0016] [0017]; [0035] thru [0037]; [0047]; [0049] [0050] [0052] thru [0054]; [0056] thru [0059]).

**Re Claim 13:** Jones discloses the claimed invention supra and further discloses transmitting a status packet from said router device to said client via said communication link (Jones, abstract, [0012] thru [0014]; [0016] [0017]; [0035] thru [0037]; [0047]; [0049] [0050] [0052] thru [0054]; [0056] thru [0059]).

**Re Claim 14:** Jones discloses the claimed invention supra and further discloses updating a status of said router device in a state table (Jones, abstract, [0012] thru [0014]; [0016] [0017]; [0035] thru [0037]; [0047]; [0049] [0050] [0052] thru [0054]; [0056] thru [0059]).

**Re Claim 15:** Jones discloses the claimed invention supra and further discloses displaying call detail record information based on information relating to said time-based bill (Jones, abstract, [0007] [0012] [0014] thru [0017]; [0029] [0035] [0037]).

**Re Claim 16:** Jones discloses a method comprising:  
connecting a client with a content provider of a desired content (Jones, abstract, [0012] thru [0014]; [0016] [0017]; [0035] thru [0037]; [0047]; [0049] [0050] [0052] thru [0054]; [0056] thru [0059] client system/client = communication device (e.g., telephone, computer etc.) and packet billing system);

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obtaining said desired content from said content provider (Jones, abstract, [0005];

[0008] thru [0012]; [0017]; [0029]; [0033] [0042] [0048]);

disconnecting said client from said content provider (Jones, abstract, [0012] thru [0014];

[0016] [0017]; [0035] thru [0037]; [0047]; [0049] [0050] [0052] thru [0054]; [0056] thru

[0059] client system/client = communication device (e.g., telephone, computer etc.) and

packet billing system);

determining an amount of time said client is connected to said content provider (Jones,

abstract, [0012] thru [0014]; [0016] [0017]; [0035] thru [0037]; [0047]; [0049] [0050]

[0052] thru [0054]; [0056] thru [0059] client system/client = communication device (e.g.,

telephone, computer etc.) and packet billing system), wherein the determining an

amount of time comprises:

determining when a network interface to said content provider is activated (Jones,

abstract, [0012] thru [0014]; [0016] [0017]; [0035] thru [0037]; [0047]; [0049] [0050]

[0052] thru [0054]; [0056] thru [0059] client system/client = communication device (e.g.,

telephone, computer etc.) and packet billing system);

and determining when said network interface to said content provider is deactivated,

wherein the determining when a network is activated and the determining when said

network interface is deactivated is performed by the client system (Jones, abstract,

[0012] thru [0014]; [0016] [0017]; [0035] thru [0037]; [0047]; [0049] [0050] [0052] thru

[0054]; [0056] thru [0059] client system/client = communication device (e.g., telephone,

computer etc.) and packet billing system);

storing, at the client system, information relating to a time-based bill based on when the

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network interface is activated and when the network interface is deactivated (Jones, abstract, [0007] [0012] [0014] thru [0017]; [0029] [0035] [0037]); and transmitting a call detail record from the client system to a billing module on a billing system based on the information relating to said time-based bill (Jones, abstract, [0007] [0014] thru [0017] [0037] [0038] [0050] [0051] [0054] [0058] [0059] client system/client = communication device (e.g., telephone, computer etc.) and packet billing system; billing module on a billing system = packet switched telephone network (PSTN) billing system).

Jones fails to explicitly disclose wherein the components of the client system were integrated (i.e., communication device and packet billing system).

#### Makings Integral

Making something integral only requires routine skill in the art See *In re Larson*, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965) .

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Jones to provide wherein all components of the client system were integrated (i.e., communication device and packet billing system).

One would have been motivated to by increased efficiency and cost reductions associated with integrating the components.

**Re Claim 19:** Jones discloses the claimed invention supra and further discloses wherein connecting said client with said content provider comprises transmitting a connect packet from said client to a router device (Jones, abstract, [0012] thru [0014]; [0016] [0017]; [0035] thru [0037]; [0047]; [0049] [0050] [0052] thru [0054]; [0056] thru [0059]).

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**Re Claim 20:** Jones discloses the claimed invention supra and further discloses transmitting a status packet from said router device to said client (Jones, abstract, [0012] thru [0014]; [0016] [0017]; [0035] thru [0037]; [0047]; [0049] [0050] [0052] thru [0054]; [0056] thru [0059]).

**Re Claim 21:** Jones discloses the claimed invention supra and further discloses updating a status of said router device in a state table (Jones, abstract, [0012] thru [0014]; [0016] [0017]; [0035] thru [0037]; [0047]; [0049] [0050] [0052] thru [0054]; [0056] thru [0059]).

**Re Claim 22:** Jones discloses the claimed invention supra and further discloses wherein the stored information comprises a call detail record (Jones, abstract, [0007] [0014] thru [0017] [0037] [0038] [0050] [0051] [0054] [0058] [0059]).

**Re Claim 23:** Jones discloses the claimed invention supra and further discloses wherein said call detail record comprising information relating to at least one of a time, an Internet protocol address and a status (Jones, abstract, [0007] [0014] thru [0017] [0037] [0038] [0050] [0051] [0054] [0058] [0059]).

**Re Claim 24:** Jones discloses the claimed invention supra and further discloses wherein disconnecting said client from said content provider comprises transmitting a disconnect packet from said client to a router device (Jones, abstract, [0012] thru [0014]; [0016] [0017]; [0035] thru [0037]; [0047]; [0049] [0050] [0052] thru [0054]; [0056] thru [0059]).

**Re Claim 25:** Jones discloses the claimed invention supra and further discloses wherein disconnecting said client further comprises transmitting a status packet from

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said router device to said client (Jones, abstract, [0012] thru [0014]; [0016] [0017]; [0035] thru [0037]; [0047]; [0049] [0050] [0052] thru [0054]; [0056] thru [0059]).

**Re Claim 26:** Jones discloses the claimed invention supra and further discloses updating a status of said router device in a state table (Jones, abstract, [0012] thru [0014]; [0016] [0017]; [0035] thru [0037]; [0047]; [0049] [0050] [0052] thru [0054]; [0056] thru [0059]).

**Re Claim 27:** Jones discloses the claimed invention supra and further discloses displaying call detail record information (Jones, abstract, [0007] [0012] [0014] thru [0017]; [0029] [0035] [0037]).

**Claims 3 and 18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones as applied to claims 1 and 16 above, and further in view of Schweitzer, US Pub. No. 2001/0055291.

**Re Claim 3:** Jones discloses the claimed invention supra but fails to explicitly disclose wherein obtaining said information comprises encrypting said information, transmitting said encrypted information across said communication link, and decrypting said encrypted information. Schweitzer discloses wherein obtaining said information comprises encrypting said information, transmitting said encrypted information across said communication link, and decrypting said encrypted information (Schweitzer, Fig. 1B, [0008] [0009]).

Analogous Art It has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for

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rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the invention is within the field of billing systems and methods. The problem to be solved is billing for content/information that is transmitted over a network. The type of content/information whether voice, video, audio etc. is not critical to the problem to be solved. Thus, the prior art cited is analogous art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Jones by adopting the teachings of Schweitzer to provide wherein obtaining said information comprises encrypting said information, transmitting said encrypted information across said communication link, and decrypting said encrypted information.

As suggested by Schweitzer there may be confidential information that must be secured as reliably as possible.

**Re Claim 18:** Jones discloses the claimed invention supra but fails to explicitly disclose wherein obtaining said desired content comprises encrypting said desired content, transmitting said encrypted desired content from said content provider across a network and decrypting said encrypted desired content. Schweitzer discloses wherein obtaining said desired content comprises encrypting said desired content, transmitting said encrypted desired content from said content provider across a network and decrypting said encrypted desired content (Schweitzer, Fig. 1B, [0008] [0009]).

Also,

Analogous Art It has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem

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with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the invention is within the field of billing systems and methods. The problem to be solved is billing for content/information that is transmitted over a network. The type of content/information whether voice, video, audio etc. is not critical to the problem to be solved. Thus, the prior art cited is analogous art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Jones by adopting the teachings of Schweitzer to provide wherein obtaining said desired content comprises encrypting said desired content, transmitting said encrypted desired content from said content provider across a network and decrypting said encrypted desired content.

As suggested by Schweitzer there may be confidential information that must be secured as reliably as possible.

**Claims 4** is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones in view of Schweitzer as applied to claim 3 above, and further in view of Buhler, EP 1 775 929 A2.

**Re Claim 4:** Jones in view of Schweitzer discloses the claimed invention supra but fails to explicitly disclose wherein said information relates to a video file. Buhler discloses wherein said information relates to a video file (Buhler, [0014]).

Also,

Analogous Art It has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem



with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the invention is within the field of billing systems and methods. The problem to be solved is billing for content/information that is transmitted over a network. The type of content/information whether voice, video, audio etc. is not critical to the problem to be solved. Thus, the prior art cited is analogous art.

It would have been obvious to one of ordinary skill in the art at the time the invention to modify the teachings of Jones by adopting the teachings of Buhler to provide wherein said information relates to a video file.

As suggested by Buhler, the system is suitable for various forms of content/information transmission (e.g., voice, video, audio) and which is chosen is a matter of design choice.

**Claims 28** is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones as applied to claim 16 above, and further in view of Buhler, EP 1 775 929 A2.

**Re Claim 28:** Jones discloses the claimed invention supra but fails to explicitly disclose wherein said desired content relates to a video file. Buhler discloses wherein said desired content relates to a video file (Buhler, [0014]).

Also,

Analogous Art It has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443

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(Fed. Cir. 1992). In this case, the invention is within the field of billing systems and methods. The problem to be solved is billing for content/information that is transmitted over a network. The type of content/information whether voice, video, audio etc. is not critical to the problem to be solved. Thus, the prior art cited is analogous art.

It would have been obvious to one of ordinary skill in the art at the time the invention to modify the teachings of Jones by adopting the teachings of Buhler to provide wherein said desired content relates to a video file.

As suggested by Buhler, the system is suitable for various forms of content/information transmission (e.g., voice, video, audio) and which is chosen is a matter of design choice.

#### ***Response to Arguments/Remarks***

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

The following will help advance prosecution:

1. Incorporate limitations in every independent claim that distinguish the claimed invention from Jones. Make sure these limitations are not obvious modifications.

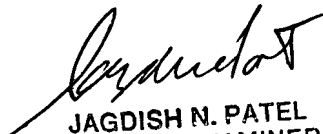
#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sara Chandler whose telephone number is 571-272-1186. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SMC

  
JAGDISH N. PATEL  
PRIMARY EXAMINER